37 Am. Jur. 2d Fraud and Deceit § 125

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Fraud and Deceit
George Blum, J.D., John Bourdeau, J.D., Romualdo P. Eclavea, J.D., Janice Holben, J.D., Karl Oakes, J.D. and Eric C. Surette, J.D.

IV. False Representations

F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

3. Particular Kinds of Representations, Transactions, Relief, etc.

a. Representations; Concealment

§ 125. Representations as to financial responsibility, credit, and solvency

Topic Summary | Correlation Table | References

West's Key Number Digest

West's Key Number Digest, Fraud 13

Forms

Am. Jur. Pleading and Practice Forms, Fraud and Deceit § 124 (Complaint, petition, or declaration—For damages—Misrepresentation as to own financial standing—General form)

In an action based upon a financial statement, where the gist of the complaint is fraud, a fraudulent intent must be proved, but this does not necessarily mean the showing of an actual intent to deceive and may be established by reasonable inferences from proved facts.[1] Moreover, in accordance with the generally followed rule that equity will grant relief or rescission for misstatements made innocently or without a fraudulent intent, at least where the contract is still executory,[2] it is held that a seller may rescind a sale induced by the buyer's misrepresentation as to the buyer's solvency or financial position even though such misrepresentation is made in good faith and without fraudulent intent.[3] It is not necessary in the case of actual misrepresentations as to the solvency of the buyer, to prove that the buyer had no intention to pay,[4] and where goods have been obtained on credit by means of representations known to be false, it is no defense that the purchaser expected to be able to pay for them and had no intention of subjecting the seller to a loss.[5] There is authority, however, that to vitiate the contract, misrepresentations as to the solvency of the buyer must be knowingly or willfully false.[6]

Footnotes

1 Hills Sav. Bank v. Cress, 205 Iowa 306, 218 N.W. 74 (1928); Howard v. Barnstable County Nat. Bank of Hyannis, 291 Mass. 131, 197 N.E. 40 (1935).

Assuming that a corporation's inventories were overvalued in two financial statements, the statements did not violate a Puerto Rico statute proscribing the publication or disbursement of false information regarding the condition or business of a corporation, absent proof that the falsity was intended or that the creditor relied on the incorrect inventory value in extending credit. Wadsworth, Inc. v. Schwarz-Nin, 951 F. Supp. 314 (D.P.R. 1996).

2 §§ 134, 135.

3 Turner v. Ward, 154 U.S. 618, 14 S. Ct. 1179, 23 L. Ed. 391 (1876); Mooney v. Davis, 75 Mich. 188, 42 N.W. 802 (1889).

As to the necessity of fraudulent intent and scienter for fraud in sales, generally, see § 131.

4 Reid v. Cowduroy, 79 Iowa 169, 44 N.W. 351 (1890).

As to promises made with an intention not to perform, generally, see §§ 94 to 100.

5 Atlas Shoe Co. v. Bechard, 102 Me. 197, 66 A. 390 (1906).

6 Jaffray v. Moss, 41 La. Ann. 548, 6 So. 520 (1889).

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